



and threatened releases of such hazardous substances to OU4 and OU5 have caused the incurrence of response costs by the Plaintiffs.

- b. U.S. Paper waives all defenses that may be alleged to limit or bar relief against U.S. Paper for OU4 and OU5 under the Fifth Claim for Relief in Plaintiffs' First Amended Complaint, including, but not limited to, any defense based on divisibility or apportionment principles, any defense based on alleged actions or inaction by the Plaintiffs (including the Seventh, Eighteenth, and Nineteenth Separate Defenses in U.S. Paper's Answer), and any and all challenges to the selected remedy for OU4 or OU5 as set forth in the Records of Decisions for the Site (including the Second Separate Defense in U.S. Paper's Answer); provided, however, that the waiver in this Subparagraph 1.b shall be withdrawn as to any portion of the remedy that is judicially held to be arbitrary and capricious or otherwise not in accordance with law under CERCLA Section 113(j), 42 U.S.C. § 9613(j), as a result of a challenge by another potentially responsible party. U.S. Paper does not waive any challenges to any changed remedy for OU4 and OU5 that: (i) is a significant difference or fundamental change from the current selected remedy for OU4 and OU5; and (ii) increases the cost of the remedy, as compared to the current selected remedy for OU4 and OU5.

2. Additional Stipulations.

- a. In April 2009, an entity known as the Lower Fox River Remediation LLC (the "LLC") entered into a contract with Tetra Tech EC, Inc. and engaged that firm to take over primary responsibility for performance of all remediation-related services required by the EPA's November 2007 Unilateral Administrative Order

for remedial action at the Site (the “UAO”). The LLC was formed solely by NCR, Appleton Papers Inc., and Arjo Wiggins Appleton (Bermuda) Ltd. U.S. Paper is not, and has never been, a member of the LLC. U.S. Paper also has no independent contractual relationship with Tetra Tech EC, Inc. for the performance of any remedial action work required by the UAO. The Plaintiffs and U.S. Paper are informed and believe that NCR Corporation (“NCR”) currently controls the LLC and the contractors engaged by the LLC.

- b. In a set of rulings in a related CERCLA case captioned *Appleton Paper Inc. v. George A. Whiting Paper Co.*, No. 08-c-16 (E.D. Wis.), the Court has determined that: (i) NCR is not entitled to contribution from U.S. Paper for NCR’s response cost and natural resource damage payments concerning the Site; and (ii) U.S. Paper is entitled to full contribution from NCR for all of its appropriate costs and damages relating to OUs 2-5, as well as any future costs or damages U.S. Paper may be deemed liable for in those portions of the Site. Those rulings are expected to be the subject of an appeal to the Seventh Circuit, but are the law of the case in that matter at the time of this stipulation.
- c. In light of the circumstances and the stipulations set forth above, and in the exercise of its enforcement discretion, the United States will initially seek performance (including an injunction based on the Fifth Claim for Relief), corrective measures, and penalties for noncompliance with the terms of the UAO from NCR and its delegates, and/or from other defendants in this action, and not from U.S. Paper. The United States reserves the right to seek injunctive relief against U.S. Paper through future proceedings if the United States determines, in

the unreviewable exercise of its enforcement discretion, that such relief has become necessary. This stipulation is not intended to waive or limit U.S. Paper's ability to substantiate its position that other defendants in this case are jointly and severally liable under CERCLA for OU4 and OU5 at the Site.

**IT IS SO STIPULATED.**

FOR THE UNITED STATES OF AMERICA

IGNACIA S. MORENO  
Assistant Attorney General  
Environment and Natural Resources Division

Dated: November 13, 2012

s/ Randall M. Stone  
RANDALL M. STONE  
JEFFREY A. SPECTOR  
KRISTIN FURRIE  
SEAN CARMAN  
MAYA ABELA  
SUMONA MAJUMDAR  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
Telephone: 202-514-1308  
Facsimile: 202-616-6584  
E-Mail: [randall.stone@usdoj.gov](mailto:randall.stone@usdoj.gov)

GREGORY J. HAANSTAD  
Attorney for the United States, Acting  
Under Authority Conferred by 28 U.S.C. § 515

SUSAN M. KNEPEL  
Assistant United States Attorney  
Office of the United States Attorney  
517 E. Wisconsin Avenue, Room 530  
Milwaukee, WI 53202

FOR THE STATE OF WISCONSIN

Dated: November 13, 2012

s/ Cynthia R. Hirsch  
CYNTHIA R. HIRSCH  
Assistant Attorney General  
Wisconsin Department of Justice  
17 West Main Street  
P.O. Box 7857  
Madison, WI 53707-785  
E-Mail: [hirschcr@doj.state.wi.us](mailto:hirschcr@doj.state.wi.us)

Phase 1 Pre-Trial Stipulations Between the Plaintiffs and Defendant U.S. Paper Mills Corp. in  
*United States and the State of Wisconsin v. NCR Corp., et al.*, No. 10-C-910 (E.D. Wis.)

FOR DEFENDANT U.S. PAPER MILLS CORP.

Dated: November 13, 2012

s/ Scott W. Hansen  
SCOTT W. HANSEN  
[shansen@reinhardtlaw.com](mailto:shansen@reinhardtlaw.com)  
Reinhart Boerner Van Duren, s.c.  
STEVEN P. BOGART  
[sbogart@reinhardtlaw.com](mailto:sbogart@reinhardtlaw.com)  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
Telephone: 414-298-1000  
Facsimile: 414-298-8097

THOMAS R. GOTTSALL  
[tgottshall@hsblawfirm.com](mailto:tgottshall@hsblawfirm.com)  
Haynsworth Sinkler Boyd P.A.  
1201 Main Street, 22<sup>nd</sup> Floor  
Columbia, SC 29201-3232  
Telephone: 803-540-7856  
Facsimile: 803-765-1243

*Counsel of Record for U.S. Paper Mills Corp.*

## CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing Phase 1 Pre-Trial Stipulations to be served on the following counsel of record by the Court's Electronic Case Filing system:

**Mary Rose Alexander**  
Latham & Watkins LLP  
[mary.rose.alexander@lw.com](mailto:mary.rose.alexander@lw.com)

**Thomas Armstrong**  
von Briesen & Roper SC  
[tarmstro@vonbriesen.com](mailto:tarmstro@vonbriesen.com)

**Paul Bargren**  
Foley & Lardner LLP  
[pbargren@foley.com](mailto:pbargren@foley.com)

**Linda E. Benfield**  
Foley & Lardner LLP  
[lbenfield@foley.com](mailto:lbenfield@foley.com)

**Dennis P. Birke**  
DeWitt Ross & Stevens SC  
[db@dewittross.com](mailto:db@dewittross.com)

**Steven P. Bogart**  
Reinhart Boerner Van Deuren SC  
[sbogart@reinhartlaw.com](mailto:sbogart@reinhartlaw.com)

**Michael P. Carlton**  
von Briesen & Roper SC  
[mcarlton@vonbriesen.com](mailto:mcarlton@vonbriesen.com)

**Evan R. Chesler**  
Cravath Swaine & Moore LLP  
[echesler@cravath.com](mailto:echesler@cravath.com)

**Francis A. Citera**  
Greenberg Traurig LLP  
[citeraf@gtlaw.com](mailto:citeraf@gtlaw.com)

**Marc E. Davies**  
Greenberg Traurig LLP  
[daviesm@gtlaw.com](mailto:daviesm@gtlaw.com)

**David R. Erickson**  
Shook Hardy & Bacon LLP  
[derickson@shb.com](mailto:derickson@shb.com)

**S. Todd Farris**  
Friebert Finerty & St. John SC  
[stf@ffsj.com](mailto:stf@ffsj.com)

**Patrick J. Ferguson**  
Latham & Watkins LLP  
[patrick.ferguson@lw.com](mailto:patrick.ferguson@lw.com)

**Charles Fried**  
[fried@law.harvard.edu](mailto:fried@law.harvard.edu)

**Sandra C. Goldstein**  
Cravath Swaine & Moore LLP  
[sgoldstein@cravath.com](mailto:sgoldstein@cravath.com)

**Thomas R. Gottshall**  
Haynsworth Sinkler Boyd PA  
[lgantt@hsblawfirm.com](mailto:lgantt@hsblawfirm.com)

**Eric W. Ha**  
Sidley Austin LLP  
[eha@sidley.com](mailto:eha@sidley.com)

**Scott W. Hansen**  
Reinhart Boerner Van Deuren SC  
[shansen@reinhartlaw.com](mailto:shansen@reinhartlaw.com)

**William H. Harbeck**  
Quarles & Brady LLP  
[william.harbeck@quarles.com](mailto:william.harbeck@quarles.com)

**Cynthia R. Hirsch**  
Wisconsin Department of Justice  
[hirschcr@doj.state.wi.us](mailto:hirschcr@doj.state.wi.us)

**Margaret I. Hoefer**  
Stafford Rosenbaum LLP  
[mhoefer@staffordlaw.com](mailto:mhoefer@staffordlaw.com)

**Caleb J. Holmes**  
Greenberg Traurig LLP  
[holmesc@gtlaw.com](mailto:holmesc@gtlaw.com)

**Philip C. Hunsucker**  
Hunsucker Goodstein PC  
[phunsucker@hgnlaw.com](mailto:phunsucker@hgnlaw.com)

**Peter C. Karegeannes**  
Quarles & Brady LLP  
[peter.karegeannes@quarles.com](mailto:peter.karegeannes@quarles.com)

**Paul G. Kent**  
Stafford Rosenbaum LLP  
[pkent@staffordlaw.com](mailto:pkent@staffordlaw.com)

**Gregory A. Krauss**  
Gregory Krauss pllc  
[gkrauss@krausspllc.com](mailto:gkrauss@krausspllc.com)

**Linda R. Larson**  
Marten Law PLLC  
[llarson@martenlaw.com](mailto:llarson@martenlaw.com)

**Vanessa A. Lavelly**  
Cravath Swaine & Moore LLP  
[vlavelly@cravath.com](mailto:vlavelly@cravath.com)

**Susan E. Lovern**  
von Briesen & Roper SC  
[slovern@vonbriesen.com](mailto:slovern@vonbriesen.com)

**Anne E. Lynch**  
Hunsucker Goodstein PC  
[alynch@hgnlaw.com](mailto:alynch@hgnlaw.com)

**Kevin J. Lyons**  
Davis & Kuelthau SC  
[klyons@dkattorneys.com](mailto:klyons@dkattorneys.com)

**Karl S. Lytz**  
Latham & Watkins LLP  
[karl.lytz@lw.com](mailto:karl.lytz@lw.com)

**Meline G. MacCurdy**  
Marten Law  
[mmaccurdy@martenlaw.com](mailto:mmaccurdy@martenlaw.com)

**David G. Mandelbaum**  
Greenberg Traurig LLP  
[mandelbaumd@gtlaw.com](mailto:mandelbaumd@gtlaw.com)

**Bradley M. Marten**  
Marten Law  
[bmarten@martenlaw.com](mailto:bmarten@martenlaw.com)

**Tara M. Mathison**  
Davis & Kuelthau SC  
[tmathison@dkattorneys.com](mailto:tmathison@dkattorneys.com)

**Allison E. McAdam**  
Hunsucker Goodstein PC  
[amcadam@hgnlaw.com](mailto:amcadam@hgnlaw.com)

**Darin P. McAtee**  
Cravath Swaine & Moore LLP  
[dmcatee@cravath.com](mailto:dmcatee@cravath.com)

**Stephen F. McKinney**  
Haynsworth Sinkler Boyd PA  
[smckinney@hsblawfirm.com](mailto:smckinney@hsblawfirm.com)

**Heidi D. Melzer**  
Melzer Law, LLC  
[hmelzer@melzerlaw.com](mailto:hmelzer@melzerlaw.com)

**Elizabeth K. Miles**  
Davis & Kuelthau SC  
[emiles@dkattorneys.com](mailto:emiles@dkattorneys.com)

**William J. Mulligan**  
Davis & Kuelthau SC  
[wmulligan@dkattorneys.com](mailto:wmulligan@dkattorneys.com)

**Daniel C. Murray**  
Johnson & Bell Ltd.  
[murrayd@jbltd.com](mailto:murrayd@jbltd.com)

**Omid H. Nasab**  
Cravath Swaine & Moore LLP  
[onasab@cravath.com](mailto:onasab@cravath.com)

**Kelly J. Noyes**  
von Briesen & Roper SC  
[knoyes@vonbriesen.com](mailto:knoyes@vonbriesen.com)

**Nancy K. Peterson**  
Quarles & Brady LLP  
[nancy.peterson@quarles.com](mailto:nancy.peterson@quarles.com)

**Thomas M. Phillips**  
Reinhart Boerner Van Deuren  
SC  
[tphillip@reinhartlaw.com](mailto:tphillip@reinhartlaw.com)

**Ian A.J. Pitz**  
Michael Best & Friedrich LLP  
[iapitz@michaelbest.com](mailto:iapitz@michaelbest.com)

**David A. Rabbino**  
Hunsucker Goodstein PC  
[drabbino@hgnlaw.com](mailto:drabbino@hgnlaw.com)

**Ronald R. Ragatz**  
DeWitt Ross & Stevens SC  
[rrr@dewittross.com](mailto:rrr@dewittross.com)

**Kathleen L. Roach**  
Sidley Austin LLP  
[kroach@sidley.com](mailto:kroach@sidley.com)

**Megan A. Senatori**  
DeWitt Ross & Stevens SC  
[ms@dewittross.com](mailto:ms@dewittross.com)

**Adam B. Silverman**  
Greenberg Traurig LLP  
[silvermana@gtlaw.com](mailto:silvermana@gtlaw.com)

**M. Andrew Skierawski**  
Friebert Finerty & St. John SC  
[mas@ffsj.com](mailto:mas@ffsj.com)

**Sarah A. Slack**  
Foley & Lardner LLP  
[sslack@foley.com](mailto:sslack@foley.com)

**Margaret R. Sobota**  
Sidley Austin LLP  
[msobota@sidley.com](mailto:msobota@sidley.com)

**Arthur A. Vogel, Jr.**  
Quarles & Brady LLP  
[arthur.vogel@quarles.com](mailto:arthur.vogel@quarles.com)

**Anthony S. Wachewicz, III**  
City of Green Bay  
[tonywa@ci.green-bay.wi.us](mailto:tonywa@ci.green-bay.wi.us)

**James P. Walsh**  
Appleton City Attorney  
[jim.walsh@appleton.org](mailto:jim.walsh@appleton.org)

**Ted A. Warpinski**  
Friebert Finerty & St John SC  
[taw@ffsj.com](mailto:taw@ffsj.com)

**Ted Waskowski**  
Stafford Rosenbaum LLP  
[twaskowski@staffordlaw.com](mailto:twaskowski@staffordlaw.com)

**Evan B. Westerfield**  
Sidley Austin LLP  
[evanwesterfield@sidley.com](mailto:evanwesterfield@sidley.com)

**Richard C. Yde**  
Stafford Rosenbaum LLP  
[ryde@staffordlaw.com](mailto:ryde@staffordlaw.com)

Dated: November 15, 2012

s/ *Randall M. Stone*